

**BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

SHIRLIE IRENE DOWNEY
830 East Grand Avenue, Suite A
Escondido, California 92025

Certified Public Accountant
Certificate No. 70365

Respondent.

Case No.: AC-2007-36

OAH No.: L2007100641

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order of the Administrative Law Judge is hereby adopted by the California Board of Accountancy of the Department of Consumer Affairs, as its Decision in the above-entitled matter.

This Decision shall become effective on June 16, 2008.

It is so ORDERED on May 16, 2008.


For The CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

FEB-22-2008 14:20

P.02

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GLORIA A. BARRIOS
Deputy Attorney General
3 KEVIN W. BUSH, State Bar No. 210322
Deputy Attorney General
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-2544
Facsimile: (213) 897-2804
6

7 Attorneys for Complainant

8 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

11 SHIRLIE IRENE DOWNEY ✓

12 Certified Public Accountant License No. CPA
13 70365 ✓

14 Respondent.
15

Case No. AC-2007-36 ✓

OAH No. L-2007100641

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
18 above-entitled proceedings that the following matters are true:

19 PARTIES

20 1. Carol Sigmann (Complainant) is the Executive Officer of the California
21 Board of Accountancy. She brought this action solely in her official capacity and is represented
22 in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Kevin W.
23 Bush, Deputy Attorney General.

24 2. Respondent Shirlie Irene Downey (Respondent) is represented in this
25 proceeding by attorney Mary Work, A Professional Corporation, whose address is 1334 Park
26 View Avenue, Suite 100, Manhattan Beach, CA 90266.

27 3. On or about January 19, 1996, the California Board of Accountancy issued
28 Certified Public Accountant License No. CPA 70365 to Respondent.

FEB-22-2008 14:21

P.03

JURISDICTION

4. Accusation No. AC-2007-36 was filed before the California Board of Accountancy (Board). The Accusation and all other statutorily required documents were properly served on Respondent on August 16, 2007. Respondent timely filed her Notice of Defense contesting the Accusation. The First Amended Accusation was filed before the Board, and all other statutorily required documents were properly served on the Respondent on February 14, 2008. A copy of First Amended Accusation No. AC-2007-36 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. AC-2007-36. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent understands and agrees that the charges and allegations in First Amended Accusation No. AC-2007-36, if proven at a hearing, constitute cause for imposing discipline upon her Certified Public Accountant License.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could

FEB-22-2008 14:21

P.04

1 establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up
2 her right to contest those charges.

3 10. Respondent agrees that her Certified Public Accountant License is subject
4 to discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the
5 Disciplinary Order below.

6 RESERVATION

7 11. The admissions made by Respondent herein are only for the purposes of
8 this proceeding, or any other proceedings in which the Board or other professional licensing
9 agency is involved, and shall not be admissible in any other criminal or civil proceeding.

10 CONTINGENCY

11 12. The parties understand and agree that facsimile copies of this Stipulated
12 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
13 force and effect as the originals.

14 13. In consideration of the foregoing admissions and stipulations, the parties
15 agree that the Board may, without further notice or formal proceeding, issue and enter the
16 following Disciplinary Order:

17 DISCIPLINARY ORDER

18
19 IT IS HEREBY ORDERED that Certified Public Accountant License No. CPA
20 70365 issued to Respondent Shirlee Irene Downey is revoked. However, the revocation is stayed
21 and Respondent is placed on probation for two (2) years on the following terms and conditions.

22 1. **Obey All Laws.** Respondent shall obey all federal, California, other
23 states' and local laws, including those rules relating to the practice of public accountancy in
24 California.

25 2. **Submit Written Reports.** Respondent shall submit, within ten (10) days
26 of completion of the quarter, written reports to the Board on a form obtained from the Board.
27 The Respondent shall submit, under penalty of perjury, such other written reports, declarations,
28 and verification of actions as are required. These declarations shall contain statements relative to

FEB-22-2008 14:21

P.05

1 Respondent's compliance with all the terms and conditions of probation. Respondent shall
2 immediately execute all release of information forms as may be required by the Board or its
3 representatives.

4 3. **Personal Appearances.** Respondent shall, during the period of probation,
5 appear in person at interviews/meetings as directed by the Board or its designated
6 representatives, provided such notification is accomplished in a timely manner.

7 4. **Comply With Probation.** Respondent shall fully comply with the terms
8 and conditions of the probation imposed by the Board and shall cooperate fully with
9 representatives of the Board of Accountancy in its monitoring and investigation of the
10 Respondent's compliance with probation terms and conditions.

11 5. **Tolling of Probation For Out-of-State Residence/Practice.** In the event
12 Respondent should leave California to reside or practice outside this state, Respondent must
13 notify the Board in writing of the dates of departure and return. Periods of non-California
14 residency or practice outside the state shall not apply to reduction of the probationary period, or
15 of any suspension. No obligation imposed herein, including requirements to file written reports,
16 reimburse the Board costs, or make restitution to consumers, shall be suspended or otherwise
17 affected by such periods of out-of-state residency or practice except at the written direction of the
18 Board.

19 6. **Violation of Probation.** If Respondent violates probation in any respect,
20 the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation
21 and carry out the disciplinary order that was stayed. If an accusation or a petition to revoke
22 probation is filed against Respondent during probation, the Board shall have continuing
23 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
24 is final.

25 7. **Completion of Probation.** Upon successful completion of probation,
26 Respondent's license will be fully restored.

27 8. **Ethics Course/Examination.** Respondent shall take and pass with a score
28 of 90 percent or better a Board approved ethics examination within one year of the effective date

FEB-22-2008 14:21

P.06

1 of this decision.

2 If Respondent fails to pass said examination within the time period provided or
3 within two attempts, Respondent shall so notify the Board and shall cease practice until
4 Respondent takes and successfully passes said exam, has submitted proof of same to the Board,
5 and has been notified by the Board that she may resume practice.

6 Notwithstanding any other provision of this probation, failure to take and pass this
7 examination within one year of the effective date of this order constitutes a separate cause for
8 discipline of Respondent's license.

9 9. **Continuing Education Courses.** Respondent shall complete, and provide
10 proper documentation of, 16 hours of designated continuing professional education courses, in
11 addition to the 80 hours required for the June 30, 2009 license renewal, within one year of the
12 effective date of this decision

13 10. **Cost Reimbursement.** Respondent shall reimburse the Board \$9,444.00
14 for its investigation and prosecution costs. The payment shall be made as follows: in quarterly
15 payments (due with the quarterly reports), with the final payment due three months before
16 probation is scheduled to terminate.

17 ACCEPTANCE

18 I have carefully read the above Stipulated Settlement and Disciplinary Order and
19 have fully discussed it with my attorney, Mary Work. I understand the stipulation and the effect
20 it will have on my Certified Public Accountant License. I enter into this Stipulated Settlement
21 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
22 Decision and Order of the Board of Accountancy.

23 DATED: 2/29/08 February 29/08

24
25 Shirley Irene Downey
26 SHIRLIE IRENE DOWNEY
Respondent

27 //

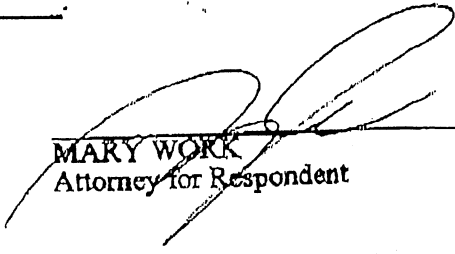
28 //

FEB-22-2008 14:21

P.07

1 I have read and fully discussed with Respondent Shirlee Irene Downey the terms
2 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
3 Order. I approve its form and content.

4 DATED: 3/3/08

5
6 
7 MARY WORK
8 Attorney for Respondent

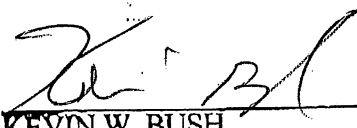
9 ENDORSEMENT

10 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
11 submitted for consideration by the California Board of Accountancy.

12
13 DATED: 3/3/08

14 EDMUND G. BROWN JR., Attorney General
15 of the State of California

16 GLORIA A. BARRIOS
17 Deputy Attorney General

18 
19 KEVIN W. BUSH
20 Deputy Attorney General

21 Attorneys for Complainant

22 DOJ Matter ID: LA2007600684
23 60279206.wpd
24
25
26
27
28

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 KEVIN W. BUSH, State Bar No. 210322
Deputy Attorney General
4 California Department of Justice
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2544
6 Facsimile: (213) 897-2804

7 Attorneys for Complainant

8
9 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. AC-2007-36

13 SHIRLIE IRENE DOWNEY
830 East Grand Avenue
14 Escondido, CA 92025

FIRST AMENDED ACCUSATION

15 Certified Public Accountant License No. CPA
70365

16
17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Carol Sigmann (Complainant) brings this Accusation solely in her official
22 capacity as the Executive Officer of the California Board of Accountancy (Board), Department of
23 Consumer Affairs.

24 2. On or about January 19, 1996, the Board issued Certified Public
25 Accountant License No. CPA 70365 to Shirly Irene Downey (Respondent). The license was in
26 full force and effect at all times relevant to the charges brought herein against Respondent. The
27 license will expire on June 30, 2009 unless renewed.

28 //

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

3. This Accusation is brought before the Board, Department of Consumer

5

6
7
8
9
0

- 1
- 2
- 3
- 4
- 5

6

7
8

9
0
1
2
3
4

5

6

7
8

1 following:

2 In or about January 2002, Roy and Sally Stevenson ("Stevensons") engaged the
3 services of the Respondent to assist them in filing an Offer in Compromise with the Internal
4 Revenue Service ("IRS"). In or about October 2002, the Stevensons completed some paperwork
5 for the offer, and forwarded the paperwork to the Respondent for filing with the IRS after
6 Respondent completed the balance of the form. Notwithstanding the fact that the IRS never
7 received the forms that were purportedly completed and mailed by the Respondent, the forms and
8 engagement contained the following errors:

- 9 a. The Stevensons' Offer in Compromise application form 656 was missing
10 pages 2 and 3;
- 11 b. Form 433-A¹, section 9, which involves living expenses, was not properly
12 completed. This prevented an offer amount from being properly calculated.
- 13 c. Form 433-A, section 7, which involves business assets was not completed.
14 The Stevensons provided the Respondent with information regarding their business assets.
- 15 d. The Respondent performed the engagement notwithstanding the fact that,
16 in her professional opinion, she believed that the IRS would reject the Stevensons' Offer in
17 Compromise because Roy Stevenson was self-employed and the Stevensons defaulted on an
18 installment payment agreement with the IRS. Respondent failed to advise the Stevensons of her
19 opinion.

20 SECOND CAUSE FOR DISCIPLINE

21 (Unprofessional Conduct With Regard to Power of Attorney)

22 7. Respondent's license is subject to disciplinary action on the grounds of
23 unprofessional conduct, as defined in section 5100, by reason of the following facts and
24 circumstances:

25 In or about February 2002, the Stevensons granted Respondent power of attorney
26

27
28 1. This is a collection information statement for wage earners and self-employed
individuals that must be included with a taxpayer's application for Offer in Compromise.

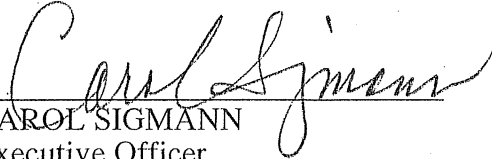
1 to represent them before the IRS. In or about January 2004, by Respondent's own admission, she
2 was no longer representing the Stevensons before the IRS. However, in or about July 2004,
3 Respondent used the power of attorney, subsequent to the Stevensons filing a civil action against
4 the Respondent, to inquire if the Stevensons subsequently submitted an Offer in Compromise
5 with the IRS. Respondent misused the power of attorney in an attempt to gain an unfair
6 advantage in a civil action filed against her by the Stevensons.

7 PRAYER

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein
9 alleged, and that following the hearing, the California Board of Accountancy issue a decision:

- 10 1. Revoking or suspending Certified Public Accountant License No. CPA
11 70365, issued to Shirlie Irene Downey;
12 2. Ordering Shirlie Irene Downey to pay the California Board of
13 Accountancy the reasonable costs of the investigation and enforcement of this case, pursuant to
14 Business and Professions Code section 5107; and,
15 3. Taking such other and further action as deemed necessary and proper.

16 DATED: January 30, 2008
17

18 
19 CAROL SIGMANN
20 Executive Officer
21 California Board of Accountancy
22 Department of Consumer Affairs
23 State of California
24 Complainant

25 LA2007600684
26 Downey First Amended Accusation-2.wpd
27
28